

## BUREAU OF AUTOMOTIVE REPAIR

### MODIFIED LANGUAGE OF PROPOSED REGULATIONS

#### REPAIR ASSISTANCE CONSUMER CO-PAYMENT

Legend: Deleted text is indicated by ~~striketrough~~.  
Added text is indicated by underlining.  
Previous additions which are now being deleted are indicated by ~~underlining and striketrough~~.  
New additions are indicated by double underlining.  
Omitted text is indicated by (\* \* \* \*).

(1) Amend Section 3340.43 of title of Article 5.5, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

#### **§ 3340.43. Smoke Test Failure; Repair Cost Limit.**

Pursuant to subdivision (e) of section 44017 of the Health and Safety Code, the owner of a motor vehicle that has failed the visible smoke test required by subsection (f) of Section 3340.42 and section 44012.1 of the Health and Safety Code, shall only be eligible for the repair cost waiver specified in subdivision (a) of section 44017 if all of the following conditions are met:

(a) The motor vehicle owner has a household income greater than the limit specified in ~~paragraph (2) of subsection (a)~~ (b) of Section ~~3394.4~~ 3394.6, but less than or equal to two hundred fifty percent (250%) of the federal Poverty Guidelines, as published by the United States Department of Health and Human Services.

(b) The motor vehicle owner's household income has been verified in accordance with ~~paragraph (2) of subsection (b)~~ of Section 3394.6.

(c) The motor vehicle owner is not receiving any form of public assistance from any agency.

(d) The motor vehicle's required emissions control equipment is not missing and has not been rendered partially inoperative or inoperative as a result of tampering.

Note: Authority cited: Sections 44002 and 44017, Health and Safety Code; and Section 9882, Business and Professions Code.  
Reference: Sections 44017 and 44062.1, Health and Safety Code.

(2) Amend Section 3394.3 of title of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

**§ 3394.3. State Assistance Limits.**

An applicant determined to be eligible under the Consumer Assistance Program may receive the following assistance:

(a) Under the Vehicle Retirement option, payment of one thousand five hundred dollars (\$1,500) for each vehicle retired from operation for vehicle owners that meet income eligibility requirements ~~have a household income that is less than or equal to two hundred twenty-five percent (225%) of the federal poverty level, as published quarterly in the Federal Register by the United States Department of Health and Human Services.~~ All other ~~eligible~~ vehicle owners shall receive one thousand dollars (\$1,000) for each vehicle retired from operation. All vehicles shall be retired from operation at a dismantler operating under contract with the Bureau of Automotive Repair.

(b) Under the Repair Assistance option, ~~a vehicle owners that~~ meet income eligibility requirements ~~has not previously participated in or received repair assistance pursuant to the Consumer Assistance Program for the same vehicle~~ will receive up to five hundred dollars (\$500) in emissions-related ~~diagnostic and~~ repair services performed at a licensed smog check test-and-repair station operating under contract with the Bureau of Automotive Repair. ~~Once the station has initiated any diagnostic or repair work on the vehicle, the owner's eligibility status or associated co-payment as specified in section 3394.4 shall not change.~~

Note: Authority cited: Sections 44001.3, 44001.5 and 44002, Health and Safety Code. Reference: Sections 44001.3, 44015, 44017, 44037.1, 44062.1, 44091, 44092, 44093, 44094 and 44095, Health and Safety Code.

(3) Amend Section 3394.4 of title of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

**§ 3394.4. Eligibility Requirements.**

(a) In order to participate in the Repair Assistance option of the Consumer Assistance Program, a person must meet the following requirements, ~~as applicable~~:

(1) Be the registered owner of ~~an eligible~~ the vehicle with vehicle title issued in their name.

~~(2) who has paid~~ The vehicle must be currently registered as operable and all appropriate registration fees ~~for the vehicle with~~ paid to the Department of Motor Vehicles.

~~(2)(3) Under the Repair Assistance option, t~~ The vehicle owner has not previously ~~received financial assistance~~ participated in the Repair Assistance option for the repair of the same vehicle.

~~(3) Under the Repair Assistance option that is based on a person's income level:~~

~~(A)(4)~~ Have a household income that is less than or equal to two hundred twenty-five percent (225%) of the federal poverty level, as published ~~quarterly~~ in the Federal Register by the United States Department of Health and Human Services; and,

~~(B)(5) Spend a minimum co-payment of twenty dollars (\$20) on emissions-related repairs at a licensed smog check test and repair station. The consumer shall p~~ Pay the total cost of testing and diagnosing the emissions-related failure as co-payment for participating in Repair Assistance. The co-payment shall be paid directly to the station that performs the state subsidized emissions-related repair work under agreement with the bureau. Money spent to correct tampered emissions control systems or to make a vehicle testable shall not be included in the co-payment.

(6) A vehicle must have failed its biennial Smog Check inspection (aborted, manual mode, and training mode tests do not qualify).

~~(4)(b) Under~~ In order to participate in the Vehicle Retirement option of the Consumer Assistance Program, a person must meet the following requirements:

~~(A)(1)~~ Not have retired another vehicle through the Smog Check Consumer Assistance Program within a preceding twelve-(12) month period; ~~and,~~

~~(B)(2) A vehicle owner who is a joint owner of a vehicle may not retire more than two (2) vehicles through the Consumer Assistance Program within a twelve-(12) month period; and,~~

~~(C)(3) An individual must b~~ Be the registered owner of the vehicle with vehicle title issued in their name.

~~(D)(4)~~ A vehicle owner who meets household income level requirements listed in paragraph (4) of subdivision (a) of this section 3394.3 shall receive one thousand five hundred dollars (\$1,500) for each vehicle retired.

~~(E)(5)~~ A vehicle owner who does not meet household income level requirements listed in paragraph (4) of subdivision (a) of this section 3394.3 shall receive one thousand dollars (\$1,000) for each vehicle retired from operation.

~~(F) In order to qualify for participation in the Vehicle Retirement option of the Consumer Assistance Program, a vehicle must have failed the most recent smog check inspection.~~

(6) The vehicle must be currently registered as operable and all registration fees paid to the Department of Motor Vehicles.

~~(b)(7) In order to qualify for participation in the Vehicle Retirement option of the Consumer Assistance Program, a~~ At the time of application, a vehicle must:

~~(1)(A)~~ Be currently registered with the Department of Motor Vehicles; or,

~~(2)(B)~~ Be currently operating under a repair cost waiver or economic hardship extension issued by the Bureau of Automotive Repair; or,

~~(3)(C)~~ Be currently operating under a Temporary Operating Permit issued by the Department of Motor Vehicles; and,

~~(4)(A)~~ (8) Notwithstanding paragraph (7) of subsection (b), at the time of application, a vehicle must:

(A) Have been continuously registered as an operable vehicle with the Department of Motor Vehicles for twenty-four (24) months prior to the postmark date of the application; or

(B) Vehicle is placed in non-operational status pursuant to Vehicle Code Section 4604, et seq., for a total of 60 or fewer days ~~during for the previous 24 months~~ registration period, and occurring at least 90 days prior to the postmark date of the application; or

(C) Vehicle registration has lapsed for less than 121 days ~~during for the previous 24 months~~ registration period, provided that the vehicle is registered for at least 90 days prior to the postmark date of the application.

~~(5)(9) Beginning January 1, 2011, a~~ A vehicle must have failed the most recent smog check inspection (aborted, manual mode, and training mode tests do not qualify) and such failure is for causes other than an ignition timing adjustment or a failed gas cap functional test; and,

~~(6)(10)~~ Be a passenger vehicle, truck, sports utility vehicle (SUV) or van, with a gross vehicle weight rating of 10,000 pounds or less; and,

~~(7)(11)~~ Pass a visual inspection conducted by the Bureau or its representative verifying that:

(A) All doors are present;

(B) The hood lid is present;

(C) The dashboard is present~~;~~<sub>2</sub>

(D) The windshield is present~~;~~<sub>2</sub>

(E) At least one side window glass is present~~;~~<sub>2</sub>

(F) The driver's seat is present~~;~~<sub>2</sub>

(G) At least one bumper is present~~;~~<sub>2</sub>

(H) The exhaust system is present~~;~~<sub>2</sub>

(I) All side and/or quarter panels are present~~;~~<sub>2</sub>~~and~~<sub>1</sub>

(J) At least one headlight, one taillight, and one brake light are present~~;~~<sub>2</sub>~~and~~<sub>1</sub>

~~(8)~~(12) Pass an operational inspection conducted by the Bureau or its representative verifying that:

(A) The vehicle is driven under its own power to an approved dismantler site~~;~~<sub>2</sub>

(B) The vehicle's engine starts readily through ordinary means without the use of starting fluids or external booster batteries~~;~~<sub>2</sub>

(C) The drivability of the vehicle is not affected by any body, steering, or suspension damage~~;~~<sub>2</sub>

(D) The vehicle is able to drive forward a minimum distance of ten (10) yards under its own power~~;~~<sub>2</sub>~~and~~<sub>1</sub>

(E) The interior pedals are operational.

(c) This section does not apply to the Enhanced Fleet Modernization Program.

Note: Authority cited: Sections 44001.3, 44001.5 and 44002, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44005, 44010.5, 44011, 44012, 44014.7, 44015, 44017, 44017.1, 44037.1, 44062.1, 44091, 44092, 44093, 44094, 44095 and 44125, Health and Safety Code.

(4) Amend Section 3394.5 of title of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

**§ 3394.5. Ineligible Vehicles.**

(a) The following vehicles are not eligible for participation in the Repair Assistance and Vehicle Retirement options of the Consumer Assistance Program:

(1) A vehicle undergoing a transfer of ownership, ~~except as provided in Section 44062.3 of Health and Safety Code.~~

(2) A vehicle being initially registered or re-registered in California.

(3) A direct import vehicle being initially registered in California.

(4) A vehicle powered by alternate fuel, unless a Bureau Referee label is posted on the vehicle.

(5) A specially constructed vehicle, unless a Bureau Referee label is posted on the vehicle.

(6) A dismantled or total loss salvaged vehicle that has not been re-registered pursuant to Section 11519 of the Vehicle Code.

(7) A vehicle operated by a fleet licensed and registered pursuant to Section 44020 of the Health and Safety Code.

(8) A vehicle registered to a non-profit organization or a business.

(9) A vehicle that is untestable on a BAR-97 Emissions Inspection System (EIS).

~~(10)~~(b) Notwithstanding subsection (a), the following vehicles are not eligible for participation in Under the Repair Assistance option:

(1) ~~a~~ A vehicle with a tampered emissions control system.

(2) A vehicle that has failed its Smog Check inspection that is required for an initial registration, upon transfer of ownership, or registration pursuant to Vehicle Code section 4000.1.

~~(11)~~(c) Notwithstanding subsection (a), a vehicle with a tampered emissions control system where the tampered system is the cause for failing the smog check inspection is not eligible for participation in Under the Vehicle Retirement option, ~~a vehicle with a tampered emissions control system where the tampered system is the cause for failing the smog check inspection.~~

~~(b)~~(d) This section does not apply to the Enhanced Fleet Modernization Program.

Note: Authority cited: Sections 44000, 44001.3, 44001.5, 44002, 44091, 44092, 44093, 44094 and 44095, Health and Safety Code. Reference: Sections 44011, 44015, 44017, 44020, 44037.1, 44091, 44092, 44093, 44094, 44095 and 44125, Health and Safety Code; and Section 11519, Vehicle Code.

(5) Amend Section 3394.6 of title of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

**§ 3394.6. Application and Documentation Requirements for the Consumer Assistance Program.**

(a) In order to participate in the Consumer Assistance Program, the applicant shall meet the requirements pursuant to 3394.4 et seq. and submit a completed application, 08\_022 CAP/APP (~~11/1008/1101/12~~), which is hereby incorporated by reference, and required documentation to the Department or its designee with original signature(s).

(b) To qualify based on income level, the applicant must certify under penalty of perjury that he or she has a household income that is less than or equal to two hundred twenty-five percent (225%) of the federal poverty level, as published in the Federal Register by the United States Department of Health and Human Services. The application must ~~bureau may require the applicant to include copies~~ provide a copy of one of the following documents, as applicable:

~~(1) Under the Repair Assistance option, copies of any invoices for emissions related repairs performed prior to applying to the Consumer Assistance Program, for the sole purpose of crediting the consumer co-payment required under section 3394.4.~~

~~(2) If applying based on income level, an applicant must provide any one of the following documents:~~

~~(A)~~ A letter from the issuing agency stating that the applicant receives any of the following benefits:

~~1. (A)~~ Supplemental Security Income (SSI);

~~2. (B)~~ State Supplemental Payments (SSP);

~~3. (C)~~ Temporary Assistance for Needy Families (TANF);

~~4. (D)~~ California Work Opportunity and Responsibility to Kids (CalWORKS);

~~5. (E)~~ General Assistance (GA) or General Relief (GR); ~~or~~ or

~~6. (F)~~ Publicly subsidized medical coverage, such as or Medi-Cal; ~~or~~ .

~~7. (G) The applicant must show proof of household income by providing one of the following:~~

~~(i)(2)~~ (2) The applicant's state or federal income tax form (Form 540 or 1040) filed in the most recent tax year; ~~or~~ and

~~(ii)(3)~~ (3) A paycheck stub reflecting year-to-date earnings, hours worked, and hourly wage of the applicant; ~~or~~ or

~~(iii)(4)~~ (4) An unemployment, veterans benefits, or disability check issued to the applicant within the last sixty (60) days; ~~or~~ or

~~(iv)(5)~~ (5) A monthly bank statement issued to the applicant within the last sixty (60) days reflecting direct deposit of Social Security or Public Assistance; or

~~(v)(6)~~ (6) Other documentation satisfactory to the Department.

Note: Authority cited: Sections 44001.5, 44002, 44091 and 44094, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44015, 44017, 44017.1, 44062.1, 44092, 44093, 44094 and 44095, Health and Safety Code.

(6) Amend Section 3394.7 of title of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

**§ 3394.7. Application and Documentation Requirements for the Enhanced Fleet Modernization Program.**

In order to participate in the Enhanced Fleet Modernization Program, the applicant shall meet the requirements pursuant to Title 13, Chapter 13, Article 2, California Code of Regulations, submit a completed application as prescribed in section 3394.6 (a), 08-022 CAP/APP (11/10), which is hereby incorporated by reference, and required documentation to the Department or its designee with original signature(s).

Note: Authority cited: Sections 44001.5 and 44125, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Section 44126, Health and Safety Code.